## INTERFERENCE DIGEST

Interference No.	105,400	Paper No.
Name: Todd W. S	Seeley	
Serial No.: 10	/084,700	Patent No.
Title: huBUB3 ge	ene involved in	human cancers
Filed: 02/27/02		
Interference with	Yen et al.	
		DECISION ON MOTIONS
Administrative Pa	atent Judge,	Dated,
		FINAL DECISION
Board of Patent A	Appeals and Int	erferences,Dated,
Court,		Dated,
		REMARKS
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This should be placed in each application or patent involved in interference in addition to the interference letters.



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Gardner Lane Telephone: 571-272-9797 Facsimile: 571-273-0042

MAILED

APR 6 - 2006

BOART OF PATENT APPEALS
AND INTERFERENCES

Applicant: SEELEY

Application No.: 10/084,700

Filed: 02/27/02

For: huBUB3 gene involved in human cancers

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,400.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/Sally Gardner Lane/ SALLY GARDNER LANE Administrative Patent Judge

Mail Stop Interference P.O. Box 1450 Alexandria Va 22313-1450

Tel: 571-272-9797 Fax: 571-273-0042 Filed: 6 April 2006

### UNITED STATES PATENT AND TRADEMARK OFFICE

# BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

TODD W. **SEELEY**Junior Party
(Application 10/084,700),

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TIMOTHY **YEN**,
GORDON CHAN, and SANDRA JABLONSKI
Senior Party
(Patent 6,593,098).

Patent Interference No. 105,400 (Technology Center 1600)

DECLARATION - Bd.R. 203(d)1

#### Part A. Declaration of interference

- 2 An interference is declared (35 U.S.C. § 135(a)) between the above-identified
- 3\_parties.\_Details\_of\_the\_application(s),-patent\_(if-any),-reissue-application-(if-any),-
- 4 count(s) and claims designated as corresponding or as not corresponding to the
- 5 count(s) appear in Parts E and F of this DECLARATION.

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<sup>&</sup>lt;sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

- 1 Part B. Judge managing the interference
- 2 Administrative Patent Judge Sally Gardner Lane has been designated to
- 3 manage the interference. Bd. R. 104(a).
- 4 Part C. Standing order
- 5 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
- 6 DECLARATION. The STANDING ORDER applies to this interference.
- 7 Part D. Initial conference call
- A telephone conference call to discuss the interference is set for 2:00 p.m. on
- 9 25 May 2006 (the Board will initiate the call).
- 10 No later than **four business days** prior to the conference call, each party shall
- 11 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;
- 12 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.
- A sample schedule for taking action during the motion phase appears as Form 2
- 14 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to
- 15 the conference call and to agree on dates for taking action. A typical motion period
- 16 lasts approximately eight (8) months. Counsel should be prepared to justify any
- 17 request for a shorter or longer period.

1	Part E. Identification and order of the parties				
2		Junior Party			
3 4 5 6	Named inventors:	Todd W. Seeley Moraga, CA			
	Involved Application:	10/084,700, filed 27 February 2002			
7	Title:	huBUB3 GENE INVOLVED IN HUMAN CANCERS			
8	Assignee:	None of record			
9		Senior Party			
10 11 12 13 14 15 16 17 18	Named Inventors:	Timothy Yen Havertown, PA			
		Gordon Chan Cheltenham, PA			
		Sandra Jablonski Philadelphia, PA			
19 20 21 22 23 24 25	Involved Patent:	6,593,098 issued on 15 July 2003, filed as application 09/555,554 on 01 December 1998			
	Title:	NOVEL GENES ENCODING PROTEINS INVOLVED IN MITOTIC CHECKPOINT CONTROL AND METHODS OF USE THEREOF			
26	Assignee:	Fox Chase Cancer Center			
27	The senior party is assigned exhibit numbers 1001-1999. The junior party is				
28	assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO $\P$ 154.2.1. The senior party				
29	is responsible for initiating settlement discussions. SO ¶ 126.1.				
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31					

1	Part F. Count and claims of the parties				
2		Count 1			
3		Claim 42 of Seeley.			
4	The claims of the parties are:				
5	Seeley: 4	4 and 42			
6	Yen: 1	1-30			
7	The claims of	The claims of the parties which correspond to Count 1 are:			
8	Seeley:	4 and 42			
9	Yen: 2	28 <sup>2</sup>			
10	The claims of the par	The claims of the parties which do not correspond to Count 1, and therefore are			
11	not involved in the interference, are:				
12	Seeley: 2	4			
13	Yen:	1-27, 29, and 30			
14	The parties are accorded the following benefit for Count 1:				
15	Seeley:				
16 17 18	issued as 6,41	US 09/208,743, filed 10 December 1998, issued as 6,410,312 on 25 June 2002			
19		1, filed 11 June 1998			
20	US 60/070,18	2, filed 30 December 1997			
21	US 60/068,10	2, filed 19 December 1997			
22					

Claim 28 may contain an error. It is noted that the claim requires a minimum of "about 348 amino acids" but refers to SEQ ID NO: 6 that has only 328 amino acids.

1	Yen:
2	US PCT/US98/25415, filed 01 December 1998
3	60/067,093, filed 01 December 1997
4	
5	Part G. Heading to be used on papers
6	The following heading must be used on all papers filed in this interference, see
7	SO ¶ 106.1.1:
8 9 10	UNITED STATES PATENT AND TRADEMARK OFFICE
11 12 13 14	BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
15 16 17 18 19 20 21 22 23 24 25 26	TODD W. SEELEY Junior Party (Application 10/084,700),  v.  TIMOTHY YEN, GORDON CHAN, and SANDRA JABLONSKI Senior Party (Patent 6,593,098).
27 28 29 30 31 32 33 34 35 36 37 38	Patent Interference No. 105,400)  (Technology Center 1600)

- 1 Part H. Order form for requesting file copies
- When requesting copies of files, use of SO Form 4 will greatly expedite
- 3 processing of the request. Please attach a copy of Parts E and F of this
- 4 DECLARATION with a hand-drawn circle around the patents and applications for which
- 5 a copy of a file wrapper is requested.

/Sally Gardner Lane/ Administrative Patent Judge

Enc:

Copy of STANDING ORDER
Form PTO-850
Copy U.S. Patent 6,593,098
Copy of claims of 10/084,700
Copy of SEQ. ID. NO. 2 of 10/084,700
Copy of default schedule for taking action during the non-priority phase

Revised 3 January 2006

cc (via overnight delivery):

### Attorney for **SEELEY**:

CHIRON CORPORATION Intellectual Property R338 4560 Horton Street Emeryville, CA 94608-2916

Tel: 510-655-8730

### Attorney for **YEN**:

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